REMARKS

The final Office Action of March 21, 2007 has been reviewed and the comments therein carefully considered. Claims 1-42 are currently pending in this application, and claims 1, 15, 26, 32, 33 and 39 are in independent form.

Interview of May 3, 2007

The Applicants would like to thank Examiners Frenel and Zeender for the courtesies extended during the interview of May 3, 2007. During the interview, Examiners Frenel and Zeender indicated that the Declaration under 37 C.F.R. §1.131 filed December 22, 2006 failed to establish due diligence from January 19, 2001 to March 22, 2001. Additionally, the Examiners confirmed that United States Patent Application Publication No. 2002/0002475 to Freedman et al. (hereinafter "Freedman") did not teach all of the elements of at least independent claim 1.

35 U.S.C. §103(a) Rejections

Claims 1-42 stand rejected under 35 U.S.C. §103(a) for obviousness over Freedman in view of United States Patent Application Publication No. 2002/0099575 to Hubbard et al. ("Hubbard"). In view of the following remarks, the Applicants respectfully request reconsideration of this rejection.

As an initial point, it must be stressed that there is an important and fundamental difference between Freedman and the presently claimed invention. In Freedman, the policyholder has direct interaction with the repair facilities or "Aligned Provider." See Freedman, ¶¶ 0126, 0132, and 0141. Specifically, the policyholder delivers the damaged vehicle to the "Aligned Provider" and deals directly with this entity. The policyholder must inspect the completed repairs and deal with the repair facility if the repairs are done improperly. In stark contrast, the claimed invention completely eliminates this process. The pending claims provide that the policyholder or other claimant just drops off the damaged vehicle at the insurer facility and the vehicle is returned to the policyholder or other claimant once the repairs are completed. The insurer, not the policyholder, coordinates and

directs the entire repair process. There is no contact between the policyholder and the repair facility or "Aligned Provider". On this basis alone, the rejection is improper.

Independent claim 1 is generally representative of rejected independent claims 1, 15, 26, and 32. Independent claim 1 is directed to a method of processing vehicle damage claims, comprising the steps of: reporting a vehicle damage claim to an insurance provider by a claimant; delivering a damaged claimant vehicle to an insurer facility operated by the insurance provider; preparing a repair estimate at the insurer facility by a representative of the insurance provider; selecting a repair facility, with the repair facility selected by the insurance provider; repairing the damaged claimant vehicle at the repair facility; returning the repaired claimant vehicle to the insurer facility; and returning the repaired claimant vehicle to the claimant. As previously clarified, independent claim 1 sets forth that the step of selecting a repair facility is conducted by the insurance provider without input from the claimant. Additionally, the method step of returning a repaired claimant vehicle to the insurer facility was previously further clarified as being conducted without input from the claimant.

Independent claim 33 is directed to an on-line system of tracking a vehicle repair. The system includes an interface that enables a claimant to access a remote file, a publicly accessible network coupled to the interface and a server remote from the interface coupled to the publicly accessible network that retains a plurality of files that can be accessed through the publicly accessible network. The files comprise repair documents and are accessed through an electronic link.

Independent claim 39 is directed to an on-line system of managing a vehicle repair process. The system includes a first interface that enables an insurance provider to electronically post an image in a memory of a computer, a second interface that enables access to the electronically posted image and a privately accessible computer network coupled to the first interface, the second interface, and the computer. The posted image facilitates the management of the vehicle repair process under the control of the insurance provider.

The Freedman application is directed to an automated insurance system and method that utilizes an integrated computer network. As part of the system and method, "Aligned Providers" are identified by the insurance provider to provide repair services to the

policyholders at reduced rates. The "Aligned Providers" have their own pre-existing relationships with the policyholders. Freedman ¶ 0088. Once this network of "Aligned Providers" is established, the system processes a policyholder's claim as generally follows: First, in the event of an accident or loss, a policyholder notifies the claims department of the insurance provider. The insurance provider then directs the policyholder to the most convenient "Aligned Provider" location or has tow trucks dispatched, and notifies the "Aligned Provider" of the impending arrival of a damaged vehicle. This, of course, is directly contrary to the presently claimed invention. Once a damaged vehicle arrives at the "Aligned Provider" location, the "Aligned Provider" calculates a repair estimate. The "Aligned Provider" then sends the repair estimate along with additional information to the insurance provider. The insurance provider then reviews the estimate and the damage to the vehicle provided by the "Aligned Provider" to make certain that no pre-existing damage was included in the repair estimates. Once the repair estimate is approved by the insurance provider, the "Aligned Provider" is instructed to commence repairs. Once the repairs are completed, the policyholder accepts their vehicle from the "Aligned Provider", (See Paragraphs [0126]-[0130] of Freedman). This again is contrary to the presently claimed invention. In Freedman, the policy holder takes his vehicle to the repair shop and picks up his vehicle from the repair shop when the repairs have been completed. In the claimed invention, the policy holder has no direct contact with the repair shop; instead, the policy holder merely drops off his vehicle at the insurers facility and the insurance provider arranges and manages the entire repair process.

Regarding independent claims 1, 15, 26 and 32, the Freedman application does not teach or suggest one or more of the method steps set forth in these claims. Specifically, and most importantly, the Freedman application fails to teach or suggest the invention feature of delivering a damaged claimant vehicle to an insurer facility operated by an insurance provider and preparing a repair estimate at the insurer facility by a representative of the insurance provider. In Freedman, an "Aligned Provider" is defined as a repair shop that has its own existing client relationships with customers that have confidence in the "Aligned Provider's" repair services (See paragraph [0088]). Accordingly, the "Aligned Provider" is not even arguably comparable with the claimed insurer facility. The "Aligned Provider" is an

independent business entity whose only relationship with the insurance provider is that of one of many preferred repair shops as is well-known in the insurance field. Freedman does not teach or suggest the claimed method wherein the policyholder does not have to interact with the repair shop directly.

The Freedman application does not teach or suggest the steps of (1) selecting a repair facility by the insurance provider without input from the claimant; or (2) returning the repaired claimant vehicle to the insurer facility without input from the claimant. Instead, the Freedman patent specifically discloses that the claimant drops his/her vehicle at, and picks up his/her vehicle from, the "Aligned Provider" at the repair facility (see paragraph [0130]).

The Hubbard application does not cure the deficiencies of the Freedman application. The Hubbard application is directed to a system for managing vehicle rentals from a service provider for a plurality of users, and is cited in the Office Action as allegedly teaching selecting a repair facility without input from the claimant and returning the repaired claimant vehicle to the insurer facility. The Office Action points to paragraphs [0007], [0076] and [0109] of the Hubbard application as disclosing these features. However, these paragraphs do not teach or suggest these features. Paragraph [0007] describes that it is known to employ an electronic rental management system using private frame relay connections for communication. Paragraph [0076] discloses that a user can search the rental managing system by claim center, adjuster or repair shop. Paragraph [0109] describes that the report function of the rental management system provides claims adjusters with instant access to all communications between the vehicle rental service provider, the repair facility, and the insurance company on all open and closed rental files. These paragraphs, as well as the rest of the Hubbard application, do not teach or suggest selecting a repair facility without input from the claimant and returning the repaired claimant vehicle to the insurer facility. In fact, these paragraphs are devoid of any relation to the claimed method step of selecting a repair facility without input from the claimant and returning the repaired claimant vehicle to the insurer facility. Accordingly, the Hubbard application does not cure the foregoing deficiencies with the Freedman application.

Regarding independent claim 33, which is representative of independent claim 39, the Freedman application does not teach or suggest an interface that enables a claimant to

access a remote file. The Office Action points to paragraphs [0125] and [0126] of the Freedman application as disclosing this feature. However, these paragraphs indicate that an "Aligned Provider" may access the Insurance Company's web portal to transmit data such as video to the Company but says nothing regarding a ***claimant*** accessing the Company's web portal to access remote files. At best, these paragraphs describe that a claimant may access the Company's web portal to notify the Company of an accident or loss which is again standard industry practice. During such a procedure, the claimant would have no need to access remote files, and instead would be sending information to the Company. Additionally, as is admitted on page 12 of the Office Action, the Freedman application does not teach or suggest a server remote from the interface coupled to the publicly accessible network that retains a plurality of files that can be accessed through the publicly accessible network.

The Hubbard application does not cure the foregoing deficiencies. As discussed previously, the Hubbard application is directed to a system for managing vehicle rentals from a service provider for a plurality of users. The Hubbard application does not teach or suggest an interface that enables a claimant to access a remote file. In fact, since the system of the Hubbard application is for the management of vehicle rentals, the claimant would not have the need to access such a system.

Declaration and Supplemental Declaration under 37 C.F.R. §1.131

The Hubbard application was filed on January 19, 2001, which is the earliest effective filing date of the Hubbard application. In the Request for Reconsideration filed December 22, 2007, Applicants submitted a *Declaration Under 37 C.F.R. §1.131*, executed by Mr. Steven Gellen (hereinafter "the *Gellen Declaration*"). The *Gellen Declaration* established that prior to January 19, 2001, Mr. Gellen was credited in an e-mail as leading a team that developed the "Concierge" system for processing claims. In particular, this e-mail described that the "Concierge" system included the following steps: first, "a customer brings a damaged vehicle to a Progressive facility." Then, "a Progressive employee hands over keys to a rental car, and the customer leaves after ten minutes." Next, "an adjuster inspects the vehicle, writes an estimate and finds a body shop to work on the car." After that "the

body shop takes the car, repairs it and returns the car to the Progressive facility." Finally, "the customer returns the rental car and takes back his own car from our facility." *Gellen Declaration* ¶ 2. The Exhibits attached to the Gellen Declaration (see, for example, page 2 of Exhibit A) also clearly shows that Applicants conceived, reduced to practice and were developing and testing the invention prior to January 19, 2001.

The *Gellen Declaration* further establishes that between the date of conception, prior to January 19, 2001, through the submission of information to patent counsel at The Webb Law Firm and until the June 5, 2001 filing date of the present application, Mr. Gellen worked with co-inventors and Associate General Counsel for Progressive in diligently reducing the invention to practice and filing a patent application thereon. In particular, Mr. Gellen presented and explained the present invention in the form of a flow diagram to the Associate General Counsel for Progressive who forwarded this information, along with a brochure explaining the invention, to The Webb Law Firm. *Gellen Declaration* ¶¶ 3 and 4. The application was filed in the United States Patent and Trademark Office on June 5, 2001, and Mr. Gellen declares that this invention was not sold or in public use in the United States more than one year prior to the date of the above application, nor was it patented or described in a printed publication anywhere prior to that time. In addition, the invention was never abandoned. *Gellen Declaration* ¶¶ 5 and 6. Therefore, this activity prior to the January 19, 2001 effective filing date of the Hubbard application until the June 5, 2001 filling date of the above application, demonstrates the required evidence of conception and diligence from before January 19, 2001 until June 5, 2001. *Gellen Declaration* ¶ 7. A copy of the *Gellen Declaration* is attached hereto for the Examiner's convenience.

During the interview of May 3, 2007, the Examiner indicated that the *Gellen Declaration* failed to establish due diligence from January 19, 2001 until March 22, 2001, the date the invention was disclosed to The Webb Law Firm for the preparation of a patent application thereon. Accordingly, attached hereto is a *Supplemental Declaration under 37 C.F.R. §1.131*, executed by Mr. Steven Gellen (hereinafter "the *Supplemental Gellen Declaration*"), that establishes due diligence from January 19, 2001 until March 22, 2001.

Specifically, the *Supplemental Gellen Declaration* provides monthly reports for January, February and March 2001 showing improvements and refinements of the present invention.

Accordingly, the combination of *Gellen Declaration* and the *Supplemental Gellen Declaration* establish that the invention underlying the present application was conceived prior to the effective filing date of the Hubbard application (January 19, 2001) and the present invention was diligently reduced to practice through the June 5, 2001 filing date of the present application. Therefore, the Hubbard application does not represent prior art and should be withdrawn from consideration. Furthermore, since the Freedman application fails to teach all of the elements of the claimed invention as the Examiner admitted during the interview of May 3, 2007, the Examiner must withdraw the rejection of claims 1-42 under 35 U.S.C. § 103 for obviousness under the Freedman application in view of the Hubbard application.

For the foregoing reasons, the Applicants respectfully submit that independent claims 1, 15, 26, 32, 33 and 39 are in condition for allowance and such is respectfully requested. Reconsideration of the rejections and allowance of claims 1, 15, 26, 32, 33 and 39 are respectfully requested.

Claims 2-14, 16-25, 27-31, 34-38 and 40-42 depend from and add further limitations to independent claims 1, 15, 26, 32, 33 and 39 or a subsequent dependent claim and are patentable for the reasons discussed hereinabove in connection with independent claims 1, 15, 26, 32, 33 and 39. Reconsideration of the rejection of claims 2-14, 16-25, 27-31, 34-38 and 40-42 is respectfully requested.

Based on the foregoing remarks, reconsideration of the rejections and allowance of pending claims 1-42 are respectfully requested.

Respectfully submitted,

THE WEBB LAW FIRM

By _____

Kent E. Baldauf
Registration No. 36,082
Attorney for Applicants
700 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
Telephone: 412-471-8815
Facsimile: 412-471-4094
E-mail: webblaw@webblaw.com